IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Contempt Petition No. 153 of 2001

1. Gramodyog Sansthan Rohalki Road.
   Bahadarabad, District Haridwar
   Through its Secretary
2. Shri Sanjay Jain
   S/o Late Shri Hukum Chand Jain
   Secretary Shri Gramodyog Sansthan
   Rohalki Road, Bahadarabad
   District Haridwar ……..Applicants

Versus

Shri Ombir Singh
Executive Engineer, U.P. Power Corporation Ltd.
(Electricity Distribution Division)
District Haridwar. ……Respondents.

Shri Siddharth Sah, learned counsel for the petitioner.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the petitioner.

2. This contempt petition has been moved complaining the disobedience of this Court's order dated 12.03.2001 passed in writ petition No. 11 of 2001 (Old No. 42029 of 2000), which reads as under:-

"The learned counsel for the petitioner confined his prayer to the effect that whatever amount in excess has been deposited by the petitioner the same be adjusted in future bills. In case, the petitioner has deposited any excess amount than that was demanded from him

towards the electricity bills, the same shall be adjusted towards the future bills.

Subject to above, the petition is disposed of."

The petitioners' case is that he is a non-continuance unit and the charges made to be paid by him were that of the continuance process industry. In this regard he has drawn attention of this Court to Annexure- 4 of the contempt petition.

3. From the perusal of the order, it is not clear what amount was paid in excess and what amount was to be deposited by the respondent. In para-18 of the counter affidavit, filed by the respondent. It has been denied if there is any excess payment made by the petitioner. Para- 18 of the counter affidavit reads as under:-

"That the contents of paragraphs no. 20 and 21 of the contempt petition are not correct, as stated and therefore denied. However, it may be stated here that since there was no excess amount paid by the petitioner, there was no question of adjustment of amount."

In view of above averment in the counter affidavit, since it is not admitted or established if there is excess payment, if so what amount was paid in excess, it cannot be said that there is wilful disobedience on the part of the respondents of the order dated 12.03.2001, quoted above.

4. In the circumstances, the contempt petition is dismissed with the observation that the petitioner will

be at liberty to seek remedy available to him in respect of the alleged amount if any paid in excess. Notices issued to the respondents are hereby discharged.

(Prafulla C. Pant, J.)

Dt. 07.08.2006
Sweta